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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,499	07/11/2003	Martin Bucknell	105SR-010	3992

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,499

Applicant(s)

BUCKNELL, MARTIN

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on July 11, 2003 & March 10, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10 and 14-22 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/11/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Information Disclosure Statement

The information disclosure statement filed July 11, 2003 fails to comply fully with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Applicant has not provided a date of publication for the reference listed under Non Patent Literature Documents. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-7, 18, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, lines 4, 6, and 7, "the grouting component" lacks an antecedent basis within the claim. Does a "grouting component" form part of the invention of claim 3? Claims 4-7 present "grouting component", as well. Perhaps, line 3 of claim 3 should be

amended to introduce a grouting component on the underside of the cover/carrier component.

Claim 18, line 1, "the grout frame" lacks antecedent basis within the claim.

Claim 20 appears dependent upon a non-existent claim. Further, it is not clear as to what is being defined by "...between a plane parallel opposed pair of walls"

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8, 10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jalbert. Jalbert discloses, Figs. 2 and 3, a base frame 2, of cardboard or other biodegradable material, formed as a matrix defining a plurality of compartments within which filler material may be placed with a grout frame 4 placed thereover. Frame 4 can serve as grouting if left in place.

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Al-Saleh. Al-Saleh discloses, Figs. 1, 3, 5, and 14 for example, a base frame 2/202 formed as a matrix defining a plurality of compartments within which filler material may be placed with apertures 7, 14, 28 formed along perimeter walls thereof.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom reference 2,129,468. U.K. '468 discloses, Figs. 2 and 4, a base frame 1/2 formed as a matrix defining a plurality of compartments within which filler material may be placed and paving tiles 7. The language of claim 17 merely defines a base frame and a plurality of paving tiles. However, U.K. '468 does disclose the paving tiles atop a "corresponding compartment" and contacting settable material 9.

Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bates. Bates discloses, Figs. 1 and 2, a base frame 5/8 formed as a matrix defining a plurality of compartments within which filler material 7 may be placed. A flat pack frame is at 8. Transverse walls are formed by 8 with a tab at each end to be slotted in place as at 12/13 down onto a corresponding wall.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Thomasson. Thomasson discloses, Figs. 1-4, a base frame 1 formed as a matrix defining a plurality of compartments within which filler material may be placed having floor 2 with apertures 3 formed along the floor.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalbert in view of Al- Saleh.

Arguments to each of Jalbert and Al-Saleh can be found above. To have provided the Jalbert frame assembly with apertures along the perimeter walls thereof, thus allowing the settable material to flow between compartments, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Al-Saleh.

Claims 11-13 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
September 17, 2004